

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7192 OF 2003

Shri Kavishwar Purshottam Sadavarte,)
aged adult, residing at E 1-18-C-9,)
Sector-14, New Panvel (East),)
District Raigad-410 206.) ...Petitioner

V/s.

1. State of Maharashtra,)
through its Secretary,)
Rural Development Department,)
Mantralaya, Mumbai-400 032.)
2. Raigad Zilla Parishad,)
through its Chief Executive)
Officer, Alibag, Dist.Raigad.) ...Respondents

Shri R.K. Mendadkar for Petitioner.
Shri C.R. Sonawane, AGP for Respondent No.1.
Shri C.G. Gawankar with Shri G. Hiranandani with
Ms.Deepa Sawant for Respondent No.2.

CORAM : V.G. PALSHIKAR &
V.M. KANADE, JJ.

DATED : JULY 19, 2006

ORAL JUDGMENT (PER V.M. KANADE, J.) :-

. By this petition, the petitioner is seeking appropriate writ or direction directing respondent no.2 to protect the services of the petitioner in the light of the Judgment delivered by the Supreme Court of India in the case of **State of Maharashtra V/s. Milind and**

others reported in 2001(1) Maharashtra Law Journal SC 1.

2. Brief facts which are relevant for the purpose of deciding this petition are as under :-

3. The petitioner was granted caste certificate stating therein that he belongs to Halba scheduled tribe. The petitioner was granted caste certificate dated 27th June, 1994. On the basis of this caste certificate, the petitioner was selected by the Kokan Regional Subordinate Services Selection Board on 14th December, 1994 and his name was recommended for appointment for the post of Leprosy Technician. Respondent No.2 pursuant to the recommendation made by the selection board issued an order of appointment dated 7th August, 1995 on the terms and condition mentioned in the said order of appointment to the post of Leprosy Technician. The petitioner joined the services of respondent no.2 on 8th August, 1995 at the Primary Health Centre, Khalapur, Khopoli. The services of the petitioner was confirmed by an order of confirmation dated 27th January 1997 with effect from 7th August,

1996.

4. Respondent no.2 decided to refer the caste certificate produced by the petitioner for verification and matter was referred to Caste Scrutiny Committee on 12th June, 2000. By order dated 30th March, 2003, the Caste Scrutiny Committee invalidated the caste certificate of the petitioner solely on the ground that the caste of the petitioner as Koshti and not Halba.

5. On 28th November, 2000, the Hon'ble Supreme Court in the case of **State of Maharashtra V/s. Milind and others (supra)** held that Halba-Koshti cannot be treated as Koshti and that the presidential order had to be read as it is without adding or subtracting any word in the said order. The constitutional Bench of the Supreme Court, however, issued direction directing that appointments and admissions which have become final shall remain unaffected by the said judgement. It is the case of the petitioner that he did not challenge the order of Caste Scrutiny Committee since he was fully covered by the Apex Court Judgment in **Milind's case**

(Supra).

6. The petitioner urged that respondent no.2 was proceeding to take steps of termination of the petitioner and therefore, he approached this Court under Article 226 of the Constitution of India and has filed the present petition.

7. Learned Counsel for the petitioner submitted that the ratio of the Judgment in **Milind's case (supra)** is squarely applicable to the facts of the present case. He submitted that the Supreme Court in the case of **Sanjay Madhusudan Puneekar V/s. State of Maharashtra, 2002(2) Maharashtra Law Journal Page 300** also had followed the Apex Court Judgment in **Milind's case (supra)**. Learned Counsel appearing on behalf of the petitioner also relied on the decision of the Division Bench of this Court reported in **2006 (2) Maharashtra Law Journal 497 (Jaydeo s/o. Mahadeo Parate V/s. State of Maharashtra and others)**.

8. In our view, the submission made by the learned

Counsel appearing on behalf of the petitioner will have to be accepted. It is an admitted position that the petitioner was appointed on 7th August, 1995 and his services were confirmed with effect from 7th August, 1996, the Judgment of the Supreme Court in **Milind's case (supra)** was delivered on 28th November, 2000 and the Hon'ble Supreme Court in the said Judgment had observed that the operation of the said Judgment should be made prospectively and had further directed that the appointments which had become final would remain unaffected.

9. The ratio of this judgment, therefore, squarely applies to the fact of the present case. Writ petition, therefore, is allowed. The impugned notice dated 16th October, 2003 issued by respondent no.2 is quashed and set aside. The services of the petitioner are protected in the light of the G.R.dated 15th June, 1995. Rule is made absolute, accordingly. In the circumstances, there shall be no order as to costs.

(V.G. PALSHIKAR, J.)

(V.M. KANADE, J.)